Court No. 2

In the High Court of Uttaranchal at Nainital

A.O. No. 212 of 2002.

1. Govindi Devi wife of Amar Singh
2. Amar Singh son of Jaman Singh
both are resident of Village-Aadra,
Patwari Circle- Kulsari, Tehsil-Tharali,
District-Chamoli.

.....Appellants/Claimants.

Versus

1. The New India Assurance Company,
Srinagar Garhwal.
2. Rajendra Singh S/o Sate Singh,
Resident of Village-Durgadhar, Bavai,
Patwari Circle-Maikoti, Tehsil and
District-Rudraprayag.
3. Jagmohan Singh son of Shishpal Singh,
Resident of Village-Bandar Khand,
Patwari Circle-Gouchar, Tehsil-
Karanprayuag, District-Chamoli.

.....Respondents/Opp. Parties.

Sri Pankaj Purohit, learned counsel for the appellants.
Sri R.B. Agarwal, learned counsel for the respondent No. 1.

Dated: 23rd Aug., 2004

Hon'ble P.C. Verma, J.
Hon'ble B.S. Verma, J.

This appeal has been preferred by the claimants/ appellants against the judgment and order dated 08.7.2002 passed by Motor Accident Claims Tribunal, Chamoli in Motor Accident Claim Case No. 46 of 2000.

2- Brief facts giving rise to this appeal are that in the morning on 22.9.1999 the deceased Man Mohan Singh son of the claimants was traveling in vehicle bus No. UP 07-C-4543 and was going to Srinagar. The said bus, which was being driven by its driver rashly and negligently, met

with an accident 1 Km. away from Karnprayag in which the deceased died. The deceased was aged 23 years at the time of death and was employed as Sepoy in the India Army. He was drawing a monthly salary of Rs. 4,452.00. The claimants filed claim petition for compensation to the tune of Rs. 10 lac for the pecuniary loss suffered due to the death of deceased against the opposite parties.

3- The opposite parties contested the case before the Tribunal denying all the allegations. The insurance company did not deny the insurance of the vehicle with it. The learned Tribunal, on the pleadings of the parties, framed necessary issues and decreed the claim petition for compensation amounting to Rs. 1,95,000/- alongwith interest at the rate of 6 % per annum from the date of filing of claim petition will the date of payment. Feeling aggrieved, the claimants have come up in this appeal for enhancement challenging the award made by the learned Tribunal.

4- The learned counsel for the appellants invited the attention of this Court on the part of the judgment where the Tribunal has fell into error in granting only one-third income of the deceased, while as per schedule the compensation ought to have been determined on the dependency which is to be calculated after deducting one-third of the total annual income. The total annual income of the deceased was determined to be Rs. 53,424/- After deducting one-third thereof the loss of dependency comes to (Rs. 53424-17808) Rs. 35,616/-. After applying the multiplier of '11' the total amount comes to Rs. 3,91,776/-. The Tribunal has applying the multiplier keeping in view the dependency of the deceased. The claimants are mother and father of the deceased who are aged 51 & 59 years respectively at the time of recording of evidence. The

deceased was bachelor. Therefore, the multiplier applied is just and proper.

5- No other point is raised.

6. The appeal is partly allowed. The impugned award dated 08.7.2002 is modified to the extent that the claimants/appellants shall be paid Rs. 3,91,776/- (Rupees three lac ninety one thousand seven hundred seventy six) only alongwith interest at the rate of 6% (six per cent) per annum from the date of claim petition till the dater of payment by the respondent No. 1- New India Insurance Company Ltd.

(B.S. Verma, J.) (P.C. Verma, J.)

P.Singh